

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 23476 of 2001

Between:

Smt. Bhogapurapu Satyavathi, W/o B. Venkat Rao,
R/o Hukumpet, Vizianagaram District.

..... PETITIONER

AND

- 1 The IInd Addl. District Court,
Visakhapatnam.
- 2 The District Collector,
Visakhapatnam, Visakhapatnam District.
- 3 The District Registrar,
Old Post Office, Visakhapatnam-1

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of "Writ of Mandamus" declaring the action of the respondents in directing to pay Rs.28,425/- on the agreement, dt: 21-6-1986, without giving an opportunity to the petitioner to participate in the enquiry U/s 31 of the Indian Stamp Act as arbitrary and illegal and consequently to set aside the notice, dt: 1-6-2001 and direct the respondents to give an opportunity to the petitioner to participate in the enquiry under Sec.31 of the Indian Stamp Act to adjudicate the amount of stamp duty and penalty payable on the agreement, dt: 21-6-1986 and pass

Counsel for the Petitioner: MR.G.RAMA GOPAL

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

This writ petition is filed to declare the action of the respondents in directing the petitioner to pay Rs.28,425/- towards penalty on the agreement dated 21.6.1986 as illegal and arbitrary since the order was passed without hearing the petitioner and without giving any opportunity to him to participate in the enquiry as required under Section 31 of the Indian Stamp Act.

The contention of the petitioner is that when he sought to tender a document dated 21.6.1986 in evidence, being plaintiff in suit O.S. No. 104 of 1996 on the file of the Court of II Additional District Judge, Visakhapatnam, the first respondent objected for marking the same as exhibit since the instrument should be impounded by paying deficit stamp duty and penalty and that the instrument was sent for adjudication of proper stamp duty payable thereon under Section 31 of the Act and the 2nd respondent herein. Subsequently, the first respondent issued a notice to the petitioner for payment of Rs.28,425/-.

The grievance of the petitioner is that as per Section 31 of the Act, he has to be given any opportunity to participate in the enquiry before impounding the document, but the District Collector did not give him any notice before impounding the document.

Third respondent filed counter stating that the 2nd respondent addressed a letter to the third respondent as per the orders of the Court to fix the stamp duty and after receiving details of the agreement, the estimated value of the

petitioner which is filed in the Court of the I respondent has been taken for assessing the stamp duty as per Art 20 of the Schedule I-A of the Act. The document impounded is only a conveyance, which falls under Art 20 of the Schedule 1 A of the Act. Accordingly the document was impounded as directed by the Court on the value mentioned by the petitioner. It is further stated that after examination of the document, notices were issued to the parties on 6-5-2000 and 3-3-2001 to produce the details of the property for determining the market value which is essential to calculate the stamp duty for the agreement as per Art 6 and 47-A of Schedule 1 A of the Indian Stamp Act, but the parties did not appear before the District Collector. Hence the petitioner was given sufficient time to participate in the enquiry and for filing any objections and as such the contention of the petitioner that no opportunity was given is false.

It is further stated that the appellate authority for challenging the impounding order of the Collector under the Indian Stamp Act is only CCRA but not the High Court.

Heard both sides. Perused the material placed before me.

Having regard to the rival contentions and the submissions made on either side, I am of the opinion that the document was impounded as per the orders of the Court. Therefore, I do not see any error apparent in impounding the document. Further, if the petitioner is aggrieved of the impounding of the document he can as well agitate before the appellate authority as mentioned in the counter affidavit.

For the foregoing, I do not want to interfere with the matter, since the petitioner has got alternative remedy of appeal to ventilate his grievance.

Accordingly, the writ petition is dismissed. No order as to costs.

kvsn 23-06-2005

To

- 1 The IInd Addl. District Court,
Visakhapatnam.
- 2 The District Collector,
Visakhapatnam, Visakhapatnam District.
- 3 The District Registrar,
Old Post Office, Visakhapatnam-1
- 4 Two CCs to GP for Revenue, High Court buildings, Hyderabad.
- 5 Two CD copies.